

**FIRST AMENDMENT TO
AGREEMENT FOR CITYWIDE CONCRETE MAINTENANCE
PROJECT NO. 7070 & 7079
BETWEEN THE
THE CITY OF UPLAND
AND
D.M. CONTRACTING, INC.**

THIS FIRST AMENDMENT TO AGREEMENT FOR CITYWIDE CONCRETE MAINTENANCE PROJECT NO. 7070 & 7079, (the "First Amended Agreement") is made as of the 11th day of January 2021, by and between the City of Upland (the "City"), and D.M. Contracting Inc., a California corporation (the "Contractor"). Collectively, City and Contractor are referred to herein as the "Parties".

WITNESSETH THAT:

WHEREAS, City and Contractor previously entered into an original Agreement for Citywide Concrete Maintenance dated January 29, 2020 (the "Original Agreement") for the service delivery period of January 29, 2020 through January 28, 2023 (the "Term"); and

WHEREAS, pursuant to the Original Agreement, during the Term, the Concrete Contractor is to provide a variety of professional services tasks in support of the City's Public Works Services Department primarily related to, Removal and Replacement of Concrete Sidewalks, Drive Approaches, Curbs & Gutter and related items, as defined within the Proposal document details; and

WHEREAS, the Original Agreement indicated an initial three (3) year contract (FY 18-19, FY 19-20 & FY 20-21) in the amount of \$484,550 with an option of two (2) additional one-year extensions (FY 21-22 & FY 22-23) at the discretion of the City in the amount of \$324,918 and \$326,000 respectively; and

WHEREAS, the funding available in the approved CIP budget for Citywide Concrete Maintenance for FY 18-19, FY 19-20 and FY 20-21 was \$283,860, \$300,000 and \$300,000 respectively for a total of \$883,860 for the initial three (3) year Contract period; and

WHEREAS, there is funding available that was specifically designated for use for the Citywide Concrete Maintenance program for FY 18-19, 19-20 & 20-21 in excess of the Original Agreement with D.M. Contracting Inc. in the amount of \$399,310 that will be un-utilized under the current Agreement; and

WHEREAS, the City wishes to make use of this excess funding which in the approved CIP budget was designated for the sole purpose of Citywide Concrete Maintenance project and in consideration of the provisions provided under the Original Agreement for the City at its discretion to extend the Original Agreement for two (2) additional one-year periods, currently designated as Optional Subsequent Year 1 and Optional Subsequent Year 2; and

WHEREAS, it is necessary to amend the Original Agreement to provide for a three-year funding program for Concrete Contractors services; and

WHEREAS, it now becomes necessary to amend said Agreement and the Parties are desirous of such amendment.

NOW, THEREFORE, in consideration of the mutual undertakings herein, the Parties amend the Agreement as follows:

1. The Original Agreement shall be amended to include the services listed as "Optional Subsequent Year 1" in the amount of \$324,918 and "Optional Subsequent Year 2" in the amount of \$326,000. Although not specific in the original proposal from D.M. Contracting Inc, it was inferred that Subsequent Year 1 would be FY 21-22 and Subsequent Year 2 is FY would be FY 22-23. To make efficient use of the funding available designated for use in the approved CIP budget for Citywide Concrete Maintenance for FY's 18-19, 19-20 & 20-21, it is hereby resolved that "Subsequent Year 1" shall be recognized as FY 20-21 and "Subsequent Year 2" shall be recognized as FY 21-22.
2. All remaining provisions of the Original Agreement shall remain the same.

IN WITNESS WHEREOF, the City and Contractor have approved this First Amended Agreement effective the day and year first above written.

CITY:

City of Upland

By: _____
Rosemary Hoerning
City Manager

CONTRACTOR:

D.M. Contracting Inc.

By: _____
David Magana,
President

ATTEST:

By: _____
Keri Johnson
City Clerk

APPROVED AS TO FORM:

By: _____
Steven Flower,
Interim City Attorney

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